

128157

**DATES:** Comments must be received in writing by June 1, 2001.

**ADDRESSES:** Comments must be submitted in writing to Gerardo Rios at the Region IX mailing address listed below. Copies of the rules and EPA's evaluation report are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations:

Permits Office (AIR-3), Air Division, Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Butte County Air Quality Management District, 2525 Dominic Drive, Suite J, Chico, CA 95928.

A courtesy copy of the rules may be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. However, these versions of the rules may be different than the versions submitted to EPA for approval. Readers are cautioned to verify that the adoption date of the rule listed is the same as the rule submitted to EPA for approval. The official submittal is only available at the agency addresses listed above.

**FOR FURTHER INFORMATION CONTACT:** David Wampler, Permits Office, (AIR-3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; (415) 744-1256.

**SUPPLEMENTARY INFORMATION:** This proposal addresses the following local rules: BCAQMD 403, 422, 424, 1105, 4-3 (recision), 4.5A (recision), 4.5B (recision), 4-6 (recision), 4-6A (recision), 4.9 (recision), and 4-11 (recision). In the Rules and Regulations section of this **Federal Register**, we are approving action on these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: February 9, 2001.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 01-10650 Filed 5-1-01; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 46 CFR Part 67

[USCG 2001-8825] - /

RIN 2115-AG08

#### Vessel Documentation: Lease-Financing for Vessels Engaged in the Coastwise Trade

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend its regulations on the documentation of vessels engaged in the coastwise trade. These proposals address statutory amendments eliminating certain barriers to seeking foreign financing by lease for U.S.-flag vessels. These proposals would clarify the information needed to determine the eligibility of a vessel financed in this manner for a coastwise endorsement.

**DATES:** Comments and related material must reach the Docket Management Facility on or before July 2, 2001.

Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before July 2, 2001.

**ADDRESSES:** To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG-2001-8825), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Patricia Williams, Deputy Director, National Vessel Documentation Center, Coast Guard, telephone 304-271-2506. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG-2001-8825) indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

### Background and Purpose

In 1996, Congress amended the vessel documentation laws to promote lease financing of vessels engaged in the coastwise trade (section 1113(d) of Public Law 104-324, the Coast Guard Authorization Act of 1996) ("the 1996 Act") (46 U.S.C. 12106(e)). Lease financing has become a very common way to finance capital assets in the maritime industry. Under lease financing, ownership of the vessel is in the name of the lessor, with a demise charter to the charterer of the vessel. (A demise or bareboat charter is an agreement in which the charterer assumes the responsibility for operating, crewing, and maintaining the vessel as if the charterer owned it.) Many vessel operators choose to acquire or build vessels through lease financing, instead of the traditional mortgage financing, because of possible cost benefits. But, until the 1996 Act, operators were prevented from obtaining this financing from U.S. companies that are less than 75 per cent U.S. owned because the leasing company had to be a U.S. citizen under section 2 of the Shipping Act, 1916, (46 U.S.C. app. 802), which requires at least 75 per cent U.S. ownership. This situation severely restricted the source of available capital.

Under section 1113(d) of the 1996 Act, Congress eliminated this technical impediment to vessel financing by adding a new paragraph (e) to 46 U.S.C. 12106. Under 46 U.S.C. 12106(e), Congress authorized the Secretary of Transportation (since delegated to the Commandant of the Coast Guard) to issue coastwise endorsements if (1) the vessel is eligible for documentation; (2) the owner, a parent entity of the owner, or subsidiary of a parent of the owner is primarily engaged in leasing or other financing transactions; (3) the vessel is under a demise charter to a person certifying that the person is a U.S. citizen for engaging in coastwise trade under section 2 of the Shipping Act, 1916; and (4) the demise charter is for at least 3 years.

According to the legislative history for the 1996 Act (see House Conference Report No. 104-854; Public Law 104-324, 1996 U.S. Code Congressional and Administrative News, p. 4323), Congress intended to broaden the sources of capital for owners of U.S. vessels engaged in the coastwise trade by creating new lease-financing options. At the same time, Congress did not intend to undermine the basic principle of U.S. maritime law that vessels operated in domestic trades must be built in shipyards in the U.S. and be operated and controlled by U.S.

citizens, which is vital to U.S. military and economic security. In that report, Congress directed the Coast Guard to establish the necessary regulations to administer 46 U.S.C. 12106(e), including the filing of demise charters for vessels issued a coastwise endorsement under that provision.

The Coast Guard's National Vessel Documentation Center (NVDC) has received requests by owners and prospective owners of U.S. vessels wanting to avail themselves of the lease-finance provisions under 46 U.S.C. 12106(e). The NVDC began implementing the new statutory provisions on a case-by-case basis. Initially, the NVDC based its determinations of eligibility for a coastwise endorsement on (1) a letter submitted by the owner or owner's attorney explaining the nature of the business relationship and how that relationship satisfied the statutory provisions and (2) a copy of the demise charter. However, it became clear to the NVDC that verification of the lease-finance arrangement and, specifically, of whether the leasing entity was "primarily engaged in leasing or other financing transactions," could not be readily ascertained. The NVDC concluded that the term "leasing or other financing transactions" in 46 U.S.C. 12106(e) was ambiguous.

To assist in clarifying the phrase "leasing or other financing transactions," the NVDC looked to the Conference Report. On page 4326, the report states: "Section 1113(d) of the Conference substitute adds a new subsection (e) to section 12106 which would permit a coastwise endorsement for non-U.S. citizen vessel ownership where (1) ownership is primarily a financial investment in the vessel without the ability and intent to control the vessel's operations by a person not primarily engaged in the direct operation or management of vessels and (2) where the owner has transferred to a qualified American citizen full possession, control and command of the U.S. built vessel in a demise charter and the demise charterer is considered the owner pro hac vice during the charter term. It is intended that banks, leasing companies, or other financial institutions qualify as owners of U.S. flag-vessels under this section even if they have a vessel owning and operating affiliate so long as the majority of the aggregate revenues of any such group are not derived from the operation or management of vessels by group members."

In light of the Conference Report, the NVDC began requiring additional evidence that the arrangement, and all

parties to it, meet the statutory requirements as envisioned by Congress. Specifically, the NVDC began requiring certifications, in the form of affidavits, and supporting documentation verifying the following:

(1) That the entity owning the vessel and seeking the coastwise endorsement is a bank, leasing company, or other financial entity organized under the laws of the United States or a State.

(2) That ownership of the vessel is primarily a financial investment without the ability and intent to control the vessel's operations by an entity not primarily engaged in the direct operation or management of vessels.

(3) That the owner will transfer, to a qualified U.S. citizen under 46 U.S.C. app. 802, full possession, control, and command of a U.S.-built vessel through a demise charter for a period of at least 3 years. The owner must verify that, for the purposes of the charter, the demise charterer is considered the owner during the term of the charter. The owner also must submit, to the NVDC, a copy of the charter.

(4) That the majority of the aggregate revenues of the entity, the parent entity, or a subsidiary of the parent entity is not derived from the operation or management of vessels.

(5) That the entity is not primarily engaged in the operation or management of commercial foreign-flag vessels used for the carriage of cargo unrelated to the vessel's owner or charterer.

During the year 2000, at least 15 business entities applied for a coastwise endorsement under the lease-finance provisions. Only one business entity has not been able to certify that they meet the above requirements.

### Discussion of the Proposed Regulations

This rulemaking is intended to implement 46 U.S.C. 12106(e) on lease-financing. The proposed regulations are based on the current practice of the NVDC, as described above.

In § 67.3, Definitions, the definition of "person" would be revised and the definitions of new terms used in these amendments ("parent," "primarily engaged in leasing or other financing transactions," and "subsidiary") would be added.

Proposed § 67.20 is new and would set out the requirements for qualifying for a coastwise endorsement under lease-financing.

Proposed § 67.147 is new and would list the items, in addition to those in § 67.141, that are needed to apply for a coastwise endorsement involving lease-financing.

Section 67.167, Requirement for exchange of Certificate of

Documentation, would be revised to identify when a Certificate of Documentation with a coastwise endorsement under lease-financing would become invalid.

Proposed § 67.179 is new and would apply to barges in the coastwise trade, which are exempt, under § 67.9(c), from the requirement that they be documented with a coastwise endorsement. The purpose for this requirement is to allow barges that can qualify to operate under lease-financing to do so without documentation so that they are on the same footing with other coastwise barges. This would reduce a potential burden, because there would be no need to obtain documents for barges at a cost of \$113 or more per vessel, plus the cost of preparing the applications for documents.

We ask for your comments on these proposals and specifically on implementing the phrase "leasing or other financing transactions" in proposed § 67.20(a)(2) and 46 U.S.C. 12106(e)(1)(B).

#### Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is available in the docket as indicated under **ADDRESSES**.

This proposed rule, in §§ 67.147 and 67.179, would require vessel and barge owners and charterers opting to take advantage of the lease-financing provisions in 46 U.S.C. 12106(e) to submit certain documents to the NVDC. According to Coast Guard's data, there are 87 business entities that have applied under the lease-finance provisions since the passage of the 1996 Act. Therefore, we estimate that the number of entities opting to do the same in the future will be approximately 30 annually.

There are no mandatory costs associated with this rulemaking. The cost imposed on those who choose to take advantage of lease-financing would include the cost of preparing and submitting the required documents. Those costs would vary from applicant to applicant and would probably be the same both for vessels under proposed § 67.147 and barges under proposed

§ 67.179. For further information on those costs, see the section on "Collection of Information" in this preamble.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The proposed rule would affect vessel owners and charterers who choose to take advantage of the lease-financing option. This option reduces the burden on owners by allowing them to have access to the cheapest financing available anywhere in the world. Under the proposed rule, to take advantage of the lease-financing option, the vessel owner and charterer must submit affidavits and a copy of their demise charter to the NVDC. The estimated cost of preparing and submitting this material would be minimal and is discussed further under "Collection of Information" in this preamble. Companies would tend to choose lease-financing only if they expect its costs to be offset by increased profits.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Patricia Williams, Deputy Director, National Vessel Documentation Center (NVDC), Coast Guard, telephone 304–271–2506.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

#### Collection of Information

This proposed rule would call for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), "collection of information" comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection. This estimate applies to the documents to be submitted under proposed §§ 67.147 and 67.179. This collection would be added to the burden estimate under OMB Control Number OMB 2115–0110.

*Title:* Vessel Documentation: Lease-Financing for Vessels Engaged in the Coastwise Trade.

*Summary of the Collection of Information:* This proposed rulemaking would add new collection-of-information requirements, in proposed §§ 67.147 and 67.179, for vessel owners and charterers applying to engage in the coastwise trade under the lease-financing provisions of 46 U.S.C. 12106(e). These new requirements would require a change in previously approved OMB Collection 2115–0110.

*Need for Information:* The Coast Guard needs this information to determine whether an entity meets the statutory requirements.

*Proposed Use of Information:* The Coast Guard would use this information to determine whether an entity meets the statutory requirements.

*Number of Respondents:* Approximately, 30 entities a year, including charter amendments and sub-charters.

*Frequency of Response:* Whenever an entity seeks to qualify to engage in the coastwise trade under 46 U.S.C. 12106(e), a qualified entity amends the

charter, or the demise charterer sub-charterers the vessel by demise charter.

**Burden of Response:** The burden resulting from this proposed rule would arise from the requirements in proposed §§ 67.147 and 67.179 that affidavits be prepared and submitted, along with a copy of the demise charter, to the NVDC. We estimate that it would take a total of 12 hours to prepare the affidavits and make the submissions. As for the per-hour cost to accomplish this administrative task, we estimate that it could be as low as \$67 per hour. However, most, if not all, of the applicants so far, chose to use law firms to accomplish these tasks, even though the proposed rule would not require their use. Hourly cost for legal assistance could be substantially higher. To align our estimates more closely with industry practice, we used \$167 per hour for a total of \$2004 per application.

**Estimate of Total Annual Burden:** The total annual hour burden for industry is 12 hours per application \$167 per hour (the higher of the two figures discussed above) 30 applications per year for a total of \$60,120 per year.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the requirements for this collection of information become effective, we will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

#### Federalism

We have analyzed this proposed rule under Executive Order 13132 and have determined that it does not have implications for federalism under that order.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(d), of Commandant Instruction M16475.IC, this rule is categorically excluded from further environmental documentation. This proposed rulemaking is administrative in nature and identifies the information necessary to apply for a coastwise endorsement under 46 U.S.C. 12106(e). A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 46 CFR Part 67

Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 67 as follows:

#### PART 67—DOCUMENTATION OF VESSELS

1. The authority citation for part 67 continues to read as follows:

**Authority:** 14 U.S.C. 664; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2107, 2110, 12106, 12120, 12122; 46 U.S.C. app. 841a, 876; 49 CFR 1.45, 1.46.

2. In § 67.3, revise the definition for the term "person;" and add, in alphabetical order, definitions for the terms "entity," "parent," "primarily engaged in leasing or financing," and "subsidiary" to read as follows:

#### § 67.3 Definitions.

\* \* \* \* \*

**Entity** means a corporation; partnership; limited liability partnership; limited liability company; association; joint venture; trust arrangement; and the government of the United States, a State, or a political subdivision of the United States or a State; and includes a trustee, beneficiary, receiver, or similar representative of any of them.

\* \* \* \* \*

**Parent** means a person that owns or controls more than 50 per cent of another entity.

**Person** means an individual or an entity.

**Primarily engaged in leasing or other financing transactions** means that more than 50% of the aggregate revenue of an entity is derived from banking or similar financial transactions.

\* \* \* \* \*

**Subsidiary** means any entity more than 50 per cent of which is directly or indirectly owned or controlled by another person.

\* \* \* \* \*

3. Add § 67.20 to read as follows:

#### § 67.20 Coastwise endorsement for a vessel that is owned by a lease-financing company and is under a demise charter.

(a) A vessel under a demise charter that is eligible for a coastwise endorsement under 46 U.S.C. 12106(e) may receive that endorsement if it meets the following:

(1) The vessel is eligible for documentation under 46 U.S.C. 12102.

(2) The vessel is considered built in the United States under § 67.97 and has not lost coastwise privileges under § 67.19(d).

(3) The entity that owns the vessel, a parent of that entity, or a subsidiary of a parent of that entity is primarily engaged in leasing or other financing transactions and not in vessel operations or management.

(4) The majority of the aggregate revenues of the entity that owns the

vessel, a parent of that entity, or a subsidiary of a parent of that entity is not derived from the operation or management of one or more vessels.

(5) The entity that owns the vessel, a parent of that entity, or a subsidiary of a parent of that entity is not primarily engaged in the operation or management of commercial, foreign-flag vessels used for the carriage of cargo for parties unrelated to the vessel's owner or charterer.

(6) The vessel is under a demise charter to a person that certifies to the Director, National Vessel Documentation Center, that the person is a citizen of the United States for engaging in the coastwise trade under 46 U.S.C. app. 802.

(7) The demise charter is for a period of at least 3 years, unless a shorter period is authorized by the Director, National Vessel Documentation Center, under circumstances such as—

(i) When the vessel's remaining life would not support a charter of 3 years; or

(ii) To preserve the use or possession of the vessel.

(b) To apply for a coastwise endorsement for a vessel under a demise charter, see § 67.147.

#### § 67.35 [Amended]

4. In § 67.35, at the end of paragraph (c), add the words "or the vessel qualifies under § 67.20".

5. In § 67.36, revise paragraphs (c)(1) and (c)(2) to read as follows:

#### § 67.36 Trust.

\* \* \* \* \*

(c) \* \* \*

(1) It meets the requirements of paragraph (a) of this section and at least 75 per cent of the equity interest in the trust is owned by citizens; or

(2) It meets the requirements of § 67.20.

6. In § 67.39, revise paragraphs (c)(1) and (c)(2) to read as follows:

#### § 67.39 Corporation.

\* \* \* \* \*

(c) \* \* \*

(1) It meets the requirements of paragraph (a) of this section and at least 75 per cent of the stock interest in the corporation is owned by citizens; or

(2) It meets the requirements of § 67.20.

\* \* \* \* \*

7. Add § 67.147 to read as follows:

#### § 67.147 Application procedure: Coastwise endorsement for a vessel that is owned by a lease-financing company and is under a demise charter.

(a) In addition to the items under § 67.141, the entity owning the vessel

(other than a barge under § 67.179) and seeking a coastwise endorsement under § 67.20 must submit the following to the National Vessel Documentation Center:

(1) A certification, in the form of an affidavit, and supporting documentation from an officer of the entity owning the vessel certifying the following:

(i) That the entity owning the vessel is a bank, leasing company, or other financial entity organized under the laws of the United States or a State.

(ii) That ownership of the vessel is primarily a financial investment without the ability and intent to control the vessel's operations and that the entity owning the vessel is not primarily engaged in the direct operation or management of the vessel.

(iii) That the entity owning the vessel will transfer to a qualified United States citizen under 46 U.S.C. app. 802 the full possession, control, and command of the vessel through a demise charter for a period of at least 3 years, unless a shorter period is authorized under § 67.20(a)(7). The certification must include a statement that the charterer will be deemed to be the owner *pro hac vice* for the term of the charter.

(iv) That the majority of the aggregate revenues of the entity that owns the vessel, a parent of that entity, or a subsidiary of a parent of that entity is not derived from the operation or management of one or more vessels.

(v) That the entity that owns the vessel, a parent of that entity, or a subsidiary of a parent of that entity is not primarily engaged in the operation or management of commercial, foreign-flag vessels used for the carriage of cargo unrelated to the vessel's owner or charterer.

(2) A copy of the charter, which must provide that the charterer is deemed to be the owner *pro hac vice* for the term of the charter.

(b) The charterer of a vessel under paragraph (a) of this section must provide detailed citizenship information in the format of form CG-1258, Application for Documentation, section G, citizenship. The citizenship information may be attached to the form CG-1258 that is submitted under § 67.141 and must be signed by, or on behalf of, the charterer.

(c) Whenever a charter under paragraph (a) of this section is amended, the vessel owner must file a copy of the amendment with the Director, National Vessel Documentation Center, within 10 days after the effective date of the amendment.

(d) Whenever the charterer of a vessel under paragraph (a) of this section demise charters the vessel to a sub-charterer—

(1) The charterer must file a copy of the sub-charter with the Director, National Vessel Documentation Center, within 10 days after the effective date of the sub-charter; and

(2) The sub-charterer must provide detailed citizenship information in the format of form CG-1258, Application for Documentation, section G, citizenship.

(e) A person that submits a false certification under this section is subject to penalty under 46 U.S.C. 12122.

8. In § 67.167, in paragraph (c)(8), remove the last "or"; in paragraph (c)(9), remove the period and add, in its place, "; or"; and add paragraph (c)(10) to read as follows:

#### § 67.167 Requirement for exchange of Certificate of Documentation.

\* \* \* \* \*

(c) \* \* \*

(10) For a vessel under 46 U.S.C. 12106(e)—

(i) The demise charter expires or is transferred to another charterer;

(ii) The citizenship of the charterer or sub-charterer changes to the extent that they are no longer qualified for a coastwise endorsement;

(iii) The entity that owns the vessel, a parent of that entity, or a subsidiary of a parent of that entity is no longer primarily engaged in leasing or other financing transactions;

(iv) The majority of the aggregate revenues of the entity that owns the vessel, a parent of that entity, or a subsidiary of a parent of that entity is derived from operation or management of vessels; or

(v) The entity that owns the vessel, a parent of that entity, or a subsidiary of a parent of that entity becomes primarily engaged in operation or management of foreign-flag vessels used for the carriage of cargo unrelated to the vessel's owner or charterer.

\* \* \* \* \*

9. Add § 67.179 to subpart M to read as follows:

#### § 67.179 Application procedure: Coastwise operation of a barge that is owned by a lease-financing company and is under a demise charter.

(a) The entity owning a barge qualified to engage in coastwise trade under the lease-financing provisions of 46 U.S.C. 12106(e) must submit the following to the National Vessel Documentation Center:

(1) A certification, in the form of an affidavit, and supporting documentation from an officer of the entity owning the barge certifying the following:

(i) That the entity owning the barge is a bank, leasing company, or other financial entity organized under the laws of the United States or a State.

(ii) That ownership of the barge is primarily a financial investment without the ability and intent to control the barge's operations by a person not primarily engaged in the direct operation or management of the barge.

(iii) That the entity owning the barge will transfer to a qualified United States citizen under 46 U.S.C. app. 802 the full possession, control, and command of the U.S.-built barge through a demise charter for a period of at least 3 years, unless a shorter period is authorized under § 67.20(a)(7). The certification must include a statement that the charterer will be deemed to be the owner *pro hac vice* for term of the charter.

(iv) That the majority of the aggregate revenues of the entity that owns the barge, a parent of that entity, or a subsidiary of a parent of that entity is not derived from the operation or management of one or more vessels.

(v) That the entity that owns the barge, a parent of that entity, or a subsidiary of a parent of that entity is

not primarily engaged in the operation or management of commercial, foreign-flag vessels used for the carriage of cargo for unrelated to the barge's owner or charterer.

(vi) That the barge is qualified to engage in the coastwise trade and that it is owned by an entity eligible to own vessels documented with a registry endorsement.

(2) A copy of the charter agreement, which must provide that the charterer will be deemed to be the owner *pro hac vice*.

(b) The charterer of the barge under paragraph (a) of this section must provide detailed citizenship information in the format of form CG-1258, Application for Documentation, section G, citizenship. The citizenship information must be signed by, or on behalf of, the charterer.

(c) Whenever a charter under paragraph (a) of this section is amended, the barge owner must file a copy of the amendment with the Director, National Vessel Documentation Center, within 10

days after the effective date of the amendment.

(d) Whenever the charterer of a barge under paragraph (a) of this section demise charters the barge to a sub-charterer—

(1) The charterer must file a copy of the sub-charter with the Director, National Vessel Documentation Center, within 10 days after the effective date of the sub-charter; and

(2) The sub-charterer must provide detailed citizenship information in the format of form CG-1258, Application for Documentation, section G, citizenship.

(e) A person that submits a false certification under this section is subject to penalty under 46 U.S.C. 12122.

Dated: February 13, 2001.

**R.C. North,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.*

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